



United States Department of State

Bureau of  
International Communications  
and Information Policy

Washington, D.C. 20520

April 16, 1990

VIA TELEFAX

Dear Mr. Chairman:

This refers to your telefax IFRB 22B(1107A)(PRD)/0.0710/90 dated April 2, 1990, concerning objections raised by the Administration of Cuba to the proposed television broadcasting directed to Cuba.

This Administration notes the advice and information provided in your letter. We further note the concerns raised by the Cuban Administration which you address. However, your letter does not indicate the basis for the IFRB's involvement in this matter. Your explanation to a U.S. Mission representative on April 5 that the Board's authority is contained in provisions 1438 - 1443 of Article 12 of the Regulations is acknowledged, but it is a view which is not shared by this Administration. In our opinion the Board has no justification for extending these provisions in an open-ended manner beyond that indicated by the Article's title and scope. The provisions you cited on April 5 seem to relate to after-the-fact examination of a specific event or incident upon request of an Administration, whereas the activity resulting in your recommendations was initiated months in advance of notification and operation of the involved station.

We have endeavored to determine the basis for your communication to us by reviewing the Board's "essential duties" listed in Article 10 of the International Telecommunication Convention (Nairobi, 1982) and the "functions" set forth in Article 10 of the Radio Regulations (Geneva, 1979), instruments to which the United States and Cuba are party. The only applicable provisions appear to be those relating to advice and assistance to administrations, as follows:

No. 79 of Nairobi Convention - "c) to furnish advice to Members with a view to the operation of the maximum practicable number of radio channels in those portions of the spectrum where harmful interference may occur,

Mr. Gary C. Brooks, Chairman,  
International Frequency Registration Board,  
International Telecommunication Union,  
Place des Nations,  
Geneva, Switzerland.

and with a view to the equitable, effective and economical use of the geostationary-satellite orbit, taking into account the needs of Members requiring assistance, the specific needs of developing countries, as well as the special geographical situation of particular countries;" and

No. 999 of the Radio Regulations - "h) the provision of assistance to administrations in the field of radio spectrum utilization, in particular to those administrations in need of special assistance, and the recommendation to administrations, where appropriate, of adjustments in their frequency assignments in order to obtain a better use of the radio spectrum;"

All other duties and functions of the IFRB relate to the orderly recording and registration of frequency assignments (including provisions 1438 - 1443), to radio conference preparations, and to other non-relevant matters. We conclude that your letter of April 2, initiated by a November 3, 1989, communication from Cuba to Secretary General Tarjanne, constitutes advice and assistance even though the Cuban letter from last November does not contain such a request. Given our understanding of the Board's actions, your letter to this Administration does not appear to be in keeping with normal IFRB or ITU procedures.

Your letter incorrectly states that "the Board did not receive any response . . ." from the United States to its inquiries and ". . . therefore, the Board had to proceed without any comments from your Administration." Discounting a number of telephone conversations between you and Department officials during the period November to February on this and related subjects, our records show three specific communications with the IFRB which speak directly to the issues involved, as follows:

-- On February 27, the Department of State transmitted a letter to the Board dealing specifically with your earlier request for our views with respect to the conformity of a U.S. assignment with No. 2666 of the Radio Regulations;

-- On March 27, the U.S. Mission in Geneva delivered to you personally a notification form for the Cudjoe Key station, containing the "additional technical information" requested in your January 12 letter;

-- Also on March 27, the Mission representative presented a very important communication to you in the form of a concise oral reply to the IFRB's January 12 letter. The points presented were along the following lines:

1. The U.S. Government is committed to respect our international obligations, including those associated with the ITU, its Convention and the Radio Regulations; in particular, we understand and will abide by our obligations to avoid causing harmful interference to the services of other ITU members and with respect to notification under Article 12;

2. The U.S. Government is concerned about the Board's planned entry into new and non-traditional areas of formal deliberation in the present matter beyond the scope of its authority; we would be extremely concerned if this unfortunate action could disadvantage the United States with respect to another ITU member;

3. Specifically, the United States is concerned about any formal consideration of TV Marti by the IFRB in advance of appropriate action under the Radio Regulations; there is no basis or precedent for IFRB's consideration of proposed actions of a member prior to an actual notification and the associated finding or to an incident of harmful interference.

We believe the Board should have made note of the aforementioned views and information in its recent letter to the United States.

With respect to the remaining substantive points of your letter, the Administration of the United States is pleased to submit the following comments:

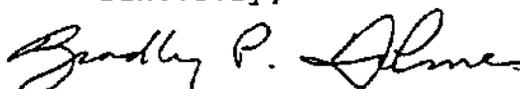
-- Efficient use of the radio spectrum - we do not agree with the Board's implication that the use of a high antenna cannot be an efficient use of the radio spectrum. Many factors are involved in the effective, efficient and economical use of spectrum. In fact, the system has been designed to take account of accepted international technical standards and to achieve a highly efficient use of the spectrum, including measures to minimize side lobe radiation which allows sharing with other broadcast stations and to use time sharing to avoid harmful interference;

-- No. 2666 of the Radio Regulations - we do not share the Board's opinion regarding the intent and spirit of the provision as expressed within parentheses in your recent letter. There are many ITU members throughout the world that use the frequencies identified in No. 2666 for international broadcast services. These include stations of the BBC External Service (U.K.), Vatican Radio, Radio Berlin International (German Democratic Republic), All India Radio, and until several weeks ago, "Radio Moscow" from Cuba in the English language. We do concur with your description of the customary practice regarding No. 2666, i.e., the clause "in principle" permits exceptions to full compliance with the provision and it is for Administrations to comply with (and interpret) the provision. The United States has determined that this customary practice is applicable to the frequency assignment at Cudjoe Key, Florida.

-- Report of Harmful Interference - with respect to paragraphs 5 and 6 relating to the recent Cuban report of harmful interference dated "27 Nov" [sic], the United States acknowledged the complaint by return telex on the same day (March 27). We are confident that the operation of the Cudjoe Key station is consistent with our obligations under the ITU Regulations and, to the best of our knowledge, is not causing harmful interference to Cuban stations. We note parenthetically that "time sharing", as cited in provision 1944 of the Radio Regulations, is one method we have used to avoid interference.

We hope that these views will prove helpful to the Board in any further consideration of this matter.

Sincerely,



Bradley P. Holmes  
United States Coordinator and Director